

**Amendments to the Drawings**

Included with this Amendment are two (2) replacement sheets collectively comprising Figures 2 and 3B. These two (2) replacement sheets shall replace the corresponding previously submitted sheets which also collectively comprise Figures 2 and 3B. In addition, two (2) annotated sheets showing the amendments to the drawings are included for reference.

Attachment:     **2** Replacement Sheets  
                  **2** Annotated Sheet Showing Changes

**REMARKS / ARGUMENTS**

This Amendment is submitted in full response to the Office Action dated April 18, 2007, wherein claims 1 and 4-5 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,314,976 to Clarke ("Clarke"); claims 1, 3-6, and 13-22 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,834,126 to Sweet, Jr. ("Sweet, Jr."); and claims 1, 3-6, and 13-22 further stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,615,697 to Lin et al. ("Lin"). Moreover, claim 12 remains allowed, as was also previously identified in the Office Action dated August 10, 2006. In addition, Examiner has objected to Applicant's drawings under 37 C.F.R. §§1.83(a) and 1.84(h)(1).

As identified herein, Applicant has amended independent claims 1, 13, and 14, cancelled claims 5 and 6, and added new dependent claims 23-28. Further, Applicant has amended the drawings as evidenced by the two (2) replacement sheets and two (2) annotated sheets submitted concurrently herewith.

As explained hereunder, the outstanding rejections of the claims based on the cited prior art as applied by the U.S. Patent & Trademark Office ("PTO") are hereby traversed in full.

In view of the foregoing amendments to the claims and the following remarks, Applicant respectfully requests the PTO's conscientious reconsideration of the same.

**A. Objections to the Drawings.**

1. Objections to the Drawings Under 37 C.F.R. §1.83(a)

As set forth in the outstanding Office Action, the PTO objected to the drawings as failing to comply with 37 C.F.R. §1.83(a) because Figure 3B fails to show the split/separated main hub member including "both the waist 13 and a channel 30," the channel 30 being positioned between the top and bottom ledges 32, 34 as described in Applicant's specification. Accordingly, Figure 3B, as presented in the attached Replacement Sheets, has been amended herein to include reference character 30, illustrating the channel being disposed between upper portion 12 and lower portion 14. In addition, Figure 3B, as presented in the attached Replacement Sheets has been amended to further include reference character 10, illustrating the hub member as shown therein. Furthermore, as also presented in the attached Replacement Sheets, Figure 3B has also been amended herein to more accurately reference the waist 13.

2. Objections to the Drawings Under 37 C.F.R. §1.84(h)(1)

As set forth above, the PTO further objected to the drawings under 37 C.F.R. §1.84(h)(1) because of the exploded view in Fig. 2 where the separate parts within the same figure should be embraced by a bracket or a linking line in order to show the relationship or order of assembly between elements of the bracket 40 and channel 30. Accordingly, Fig. 2, as presented in the attached Replacement Sheets, has been amended herein to include a lead line to designate the relationship of the bracket 40 and the main hub member 10 and/or the channel 30 thereof.

**B. Examiner Interview.**

Applicant would like to thank the Examiner for the telephone interview conducted on May 16, 2007 with the Applicant's attorney. It is respectfully noted that matters discussed therein included the outstanding Office Action dated April 18, 2007, and the cited references to Clarke, Sweet, Jr., and Lin, as applied to Applicant's pending claims previously presented in the Amendment dated December 11, 2006. Specifically, the Examiner's identification of a "band" in the references to Clarke, Sweet, Jr., and Lin were addressed.

Furthermore, it is respectfully submitted that Applicant does not completely agree with Examiner's portrayal of a discussion directed to "how the brackets are secured to the band and the hub," as stated in Examiner's Interview Summary dated May 22, 2007. As discussed in detail herein, Applicant has, however, amended the claims to more particularly point out Applicant's novel invention. Specifically, as will be discussed below, Applicant has amended the claims herein to recite a plurality of brackets disposed in an overlying relation to a band and/or the brackets being fixedly connected to the hub member.

**C. Legal Issues Involved with 35 U.S.C. §102.**

Before reviewing the substantive issues with regard to the rejection of the claims under 35 U.S.C. §102, the Applicant respectfully points out the well established requirement that:

[f]or a prior art reference to anticipate in terms of 35 U.S.C. §102, **every** element of the claimed invention must be **identically** shown in a single reference. Diversitech Corp. v. Century Steps, Inc., 7 USPQ2d 1315, 1317 (Fed. Cir. 1988) (emphasis added).

Moreover, this burden on the U.S. PTO is further compounded by the fact that the Federal Circuit has stated that within the single reference:

[t]he identical invention must be shown in as complete

detail as is contained in the patent claim.  
Richardson v. Suzuki Motor Co. Ltd., 9 USPQ2d 1913,  
1920 (Fed. Cir. 1989).

And, more recently, the Federal Circuit has further expanded  
this principle to include that:

[a]n anticipating reference must describe the patented  
subject matter with sufficient clarity and detail to  
establish that the subject matter existed in the prior  
art and that such existence would be recognized by  
persons of ordinary skill in the field of the  
invention. Crown Operations Int'l, Ltd. v. Solutia  
Inc., 289 F.3d 1367, 62 USPQ2d 1917, 1921 (Fed. Cir.  
2002).

As such, if an Applicant can establish that at least one claimed  
element is not present or is not identically disclosed in  
complete detail in the prior art reference put forth by the PTO,  
the grounds for rejection pursuant to 35 U.S.C. §102 of each  
claim comprising that element have been overcome.

**D. 35 U.S.C. §102 Claim Rejections Based Upon Clarke.**

As set forth above, previously presented claims 1 and 4-5  
stand rejected under 35 U.S.C. §102(b) as being anticipated by  
Clarke, based, in part, on the Examiner's position that Clarke  
shows and teaches an umbrella frame comprising, among other  
elements, a band (116) secured about the channel substantially  
adjacent the upper portion, and the band providing means for  
securing pin member (112) to a retaining pin slot formed on the

pole.

Applicant notes, however, that as shown in Figure 1, reproduced below, Clarke discloses a "looped line" (116) which maintains a retaining pin (112) around the waist portion (28). Specifically, Clarke states at col. 4, lines 48-51, that:

As shown in FIGS. 1 and 2, the pin 112 is maintained around the waist portion 28 of the main hub member by a looped line 116 which allows the main hub member to rotate without binding the line.

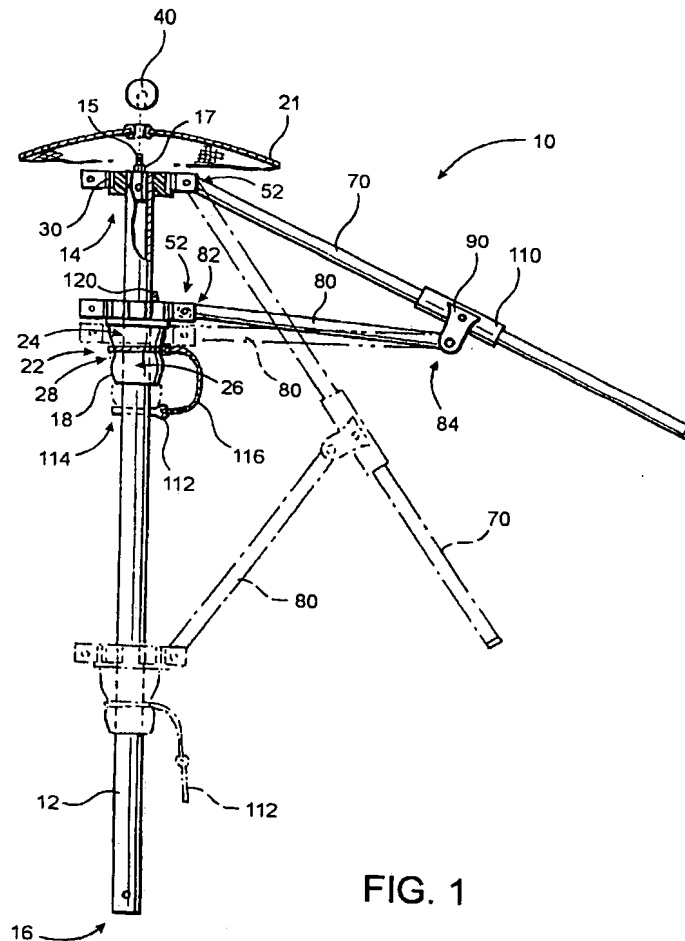


FIG. 1

Independent claim 1 has been amended herein to more particularly point out Applicant's novel invention of the present application. More in particular, independent claim 1 as amended herein now recites a plurality of brackets "disposed in overlying relation to said band." Applicant notes that the cited reference to Clarke does not disclose, teach, or even merely suggest a plurality of brackets disposed in overlying relation to a band. As stated above, Clarke discloses a "looped line" (116) around the waist portion (28) which as shown in the drawings, has at its other end a separate structure, namely, a retaining pin (112) that is inserted into a pin retaining slot (114) on the umbrella pole (12). Consequently, the looped line (116) disclosed in Clarke merely allows for the main hub member (18) to rotate without binding the line (116). Further, Clarke also discloses hub connector joints (52) which are insertable within hub member slots (42) and may be secured therein. See Clarke, col. 3, lines 27-29. Accordingly, even if, as the Examiner contends, the "looped line" (116) disclosed in Clarke corresponds to a band secured to an exterior peripheral surface of the hub member, as disclosed and claimed in the present application, a position with which Applicant does not agree, it



cannot be said that Clarke discloses a plurality of brackets disposed in overlying relation to the band, as now recited in currently amended independent claim 1.

Therefore, for the reasons described in detail above, the cited reference to Clarke does not specifically disclose or even remotely suggest at least one specific structural feature of Applicant's invention as now defined in the claims presented in this application by virtue of this amendment. As indicated above, if an Applicant can establish that at least one claimed element is not present or is not identically disclosed in complete detail in the prior art reference, the grounds for rejection pursuant to 35 U.S.C. §102 has been overcome. Accordingly, Clarke cannot be relied upon as an anticipatory §102(b) reference relative to independent claim 1, as currently amended herein. As such, for at least the above reasons, claims 1 and 4, as well as claims 23-28, being dependent upon claim 1, overcome the teachings of Clarke.

**E. 35 U.S.C. §102 Claim Rejections Based Upon Sweet, Jr.**

As set forth above, claims 1, 3-6, and 13-22 stand rejected under 35 U.S.C. §102(b) as being anticipated by Sweet, Jr., based, in part, on the Examiner's position that Sweet, Jr. shows

and teaches an umbrella frame comprising, among other elements, a band (51) secured about the channel, and a plurality of brackets (38) secured to the band about the channel and the hub member in spaced relation to one another, and the bracket pivotally connected to ends of corresponding strut members (26).

It is noted that the specific teachings of Sweet, Jr., which are perhaps best illustrated in Figures 2, 4, and 5, reproduced below, are for an umbrella having a variety of relatively complex moving parts to facilitate opening and closing of the frame.

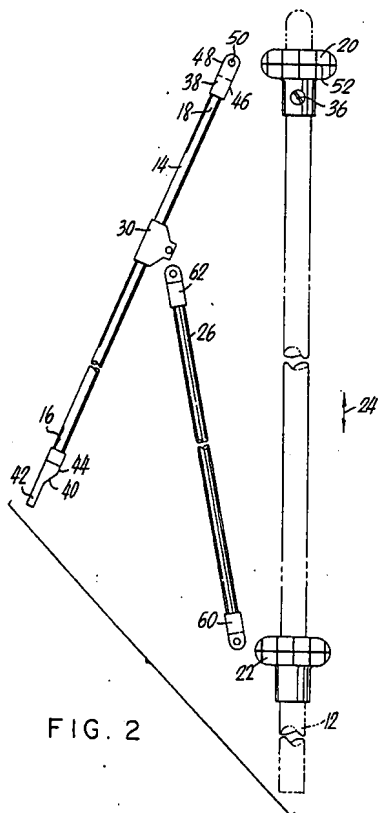


FIG. 2

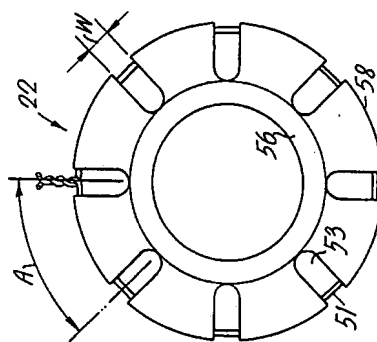


FIG. 4

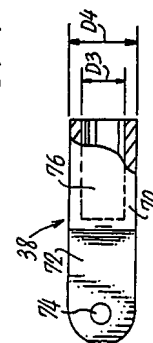


FIG. 5

In particular, Sweet, Jr. includes cap members or fixtures (38, 60, and 62) which fit to the proximal and distal extremities of the respective struts (26) and/or ribs (14). See Sweet, Jr., Col. 5, Lines 29-33, 65-68. The fixtures (38, 60, and 62) each include a flattened portion (48, 72) including an eyelet or opening (50, 74) with respect to which pivotal coupling or connection may be made. *Id.* at Col. 5, Line 68 - Col. 6, Line 4. Specifically, as can be seen in Figures 4 and 5, Sweet, Jr. includes a wire (51) which passes through the opening (74) on the cap members or fixtures (38 and 60), to create a pivotal relationship therewith. Furthermore, Sweet, Jr. includes accommodating radial slots (53) which receive the capped and eyeleted ends or fixtures and allow for their pivotal movement.

In stark contrast, however, the present invention as recited in currently amended independent claim 1, as well as independent claims 13 and 14, as amended herein, include a plurality of brackets fixedly connected to the hub member. As such, the brackets, as disclosed and claimed in the present invention, do not pivot or move relative to the hub member as disclosed in the cited reference to Sweet, Jr.

In addition, independent claims 1 and 13, as amended herein, include brackets disposed in overlying relation to the band. Conversely, however, the wire (51) in Sweet, Jr. is disposed through the eyelet or opening (74) of the cap members (38 and 60), to provide a pivotal relationship therewith. Accordingly, it cannot be said that Sweet, Jr. discloses, teaches, or suggests a plurality of brackets disposed in overlying relation to a band.

Therefore, for the reasons described in detail above, the cited reference to Sweet, Jr. does not specifically disclose or even remotely suggest specific structural features of Applicant's invention as now defined in the claims presented in this application by virtue of this amendment. As such, Sweet, Jr. cannot be relied upon as an anticipatory 102(b) reference relative to independent claims 1, 13, or 14. Accordingly, for at least the above reasons, independent claims 1, 13, and 14, as well as dependent claims 3, 4, 15-22, and newly added claims 23-28 overcome the teachings of the cited reference to Sweet, Jr.

**F. 35 U.S.C. §102 Claim Rejections Based Upon Lin.**

As set forth above, claims 1, 3-6, and 13-22 further stand rejected under 35 U.S.C. §102(b) as being anticipated by Lin, based, in part, on the Examiner's position that Lin teaches a hub assembly in combination with an umbrella frame having, among other elements, a band (341) being disposed in a channel (411), and a plurality of bracket members (43a) secured to the band and the hub member, and the bracket members (43a) having holes (434) for pivotally connecting an end of the corresponding strut member (20), and the lower portion of the hub member having a waist portion (42) having a smaller diameter.

Applicant respectfully notes that Lin is directed to a pocketable folding umbrella with foldably sandwiched ribs, having a number of complex structural components. Specifically, and as can be seen in Figures 1 and 6, reproduced below, Lin discloses at col. 4, lines 10-13:

a pivot 441 formed as a loop wound in an annular groove 411 recessed in the lower slim plate 41 for universally pivotally securing a stretcher rib 22 of each extremity rib means 2.

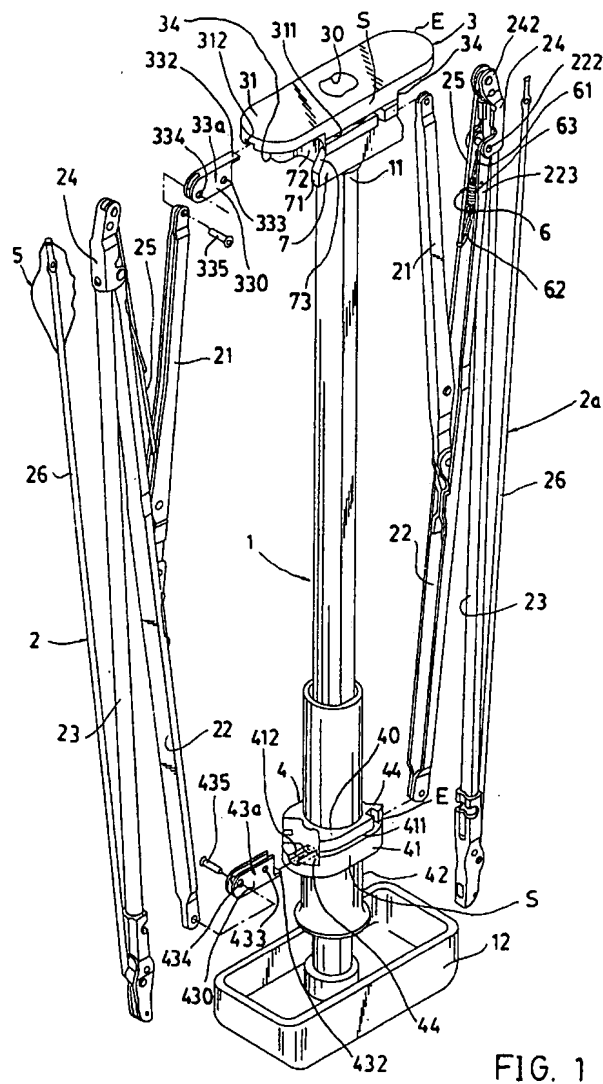


FIG. 1

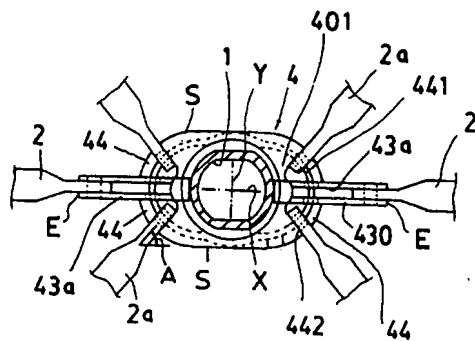


FIG. 6

In stark contrast, however, the present invention is directed to a hub assembly which, as recited in currently amended claims 1 and 13, includes a band secured to an external peripheral surface of the hub member. It can be appreciated that the band achieves the purpose of embracing at least a

portion of the hub member, thereby maintaining or increasing the structural integrity, and thus the longevity, of the hub member. Lin, however, does not teach a band secured to an external peripheral surface of the hub member, as disclosed in the present application and recited in currently amended claims 1 and 13. Rather, as above, the pivot (441) in Lin is a loop wound in an annular groove (411).

Additionally, even if Lin does teach a band secured to an exterior peripheral surface of a hub member, a position with which Applicant disagrees, Lin does not disclose a plurality of brackets disposed in overlying relation to a band, as now recited in currently amended independent claims 1 and 13. Instead, however, each pivoting means (33a, 43a) disclosed in Lin includes, among other elements, an inner pivot hole (333) formed in an inner portion of the pivoting means (33a, 43a) for passing a pivot (341, 441). See e.g., Lin, Col. 3, Lines 39-46. Accordingly, the pivot (341, 441) disclosed in Lin is structured to pass through a pivot hole in each pivoting means (33a, 43a). Thus it cannot be said that the pivoting means (33a, 43a), or any other portion of Lin, is disposed in an overlying relation to a band.

Furthermore, Lin also does not disclose a channel continuously disposed on said hub member and extending about an exterior peripheral surface thereof, as recited in independent claim 14 herein. In particular, the Examiner asserts that Lin includes a channel (411); however, as best shown in Figure 1, the annular groove (411) is not continuously disposed on a hub. Rather, the structure disclosed in Lin includes an opening near each extremity portion (E) at least partially defined by an outer retarding portion (442) protruding sidewardly from a central portion (401) (see Figures 6 and 7), wherein the groove (411) does not extend to. (The opening can also be seen in Figure 1 at or near the runner biasing means (44)). Thus, the annular groove (411) is not continuously disposed about an exterior periphery of the structure disclosed in Lin.

Along the same lines, Lin also does not disclose a plurality of brackets disposed within the channel and fixedly connected to the hub member, as recited in claims 13 and 14 of the present application. More in particular, as stated above, the annular groove (411) does not extend continuously about the periphery of the hub, nor does it extend to the portions where the pivoting means (43a) connects thereto. Accordingly, the



pivoting means (43a) cannot be disposed <sup>^</sup>within the annular groove (411).

Therefore, for the reasons described in detail above, the cited reference to Lin does not specifically disclose or even remotely suggest specific structural features of Applicant's invention as now defined in the claims presented in this application by virtue of this amendment. Furthermore, as identified above, if an Applicant can establish that at least one claimed element is not present or is not identically disclosed in complete detail in the prior art reference, the grounds for rejection pursuant to 35 U.S.C. §102 has been overcome. Thus, independent claims 1, 13, and 14, as well as dependent claims 3, 4, 15-22, and newly added claims 23-28 overcome the teachings of Lin.

**G. Conclusion**

Based on the foregoing remarks, as well as the above amendments to the claims, it is respectfully requested that this application be given full and favorable reconsideration. It is believed that upon doing so, this application should be deemed to now be in condition for allowance, which action is also respectfully requested.

Application No. 10/748,755  
Amdt. dated July 18, 2007  
Reply to Office Action dated April 18, 2007

F:\MM DOCS\1-PAT\PAT 2002\APP\1221-02 Clarke\1221 SECOND AMENDMENT FILED.doc

In the event that any additional fee may be required by the filing of this paper, the Commissioner is hereby authorized to charge any fees and/or credits to our **Deposit Account No. 13-1227.**

Respectfully Submitted,

MALLOY & MALLOY, P.A.  
Attorneys for Applicant  
2800 S.W. 3<sup>rd</sup> Avenue  
Historic Coral Way  
Miami, Florida 33129  
(305)858-8000

By: 

Jennie S. Malloy  
Reg. No. 37,670

Date: 7/18/2007

## APPENDIX



Application No. 10/748,755  
Office Action dated July 18, 2007  
Reply to Office Action dated April 18, 2007  
Annotated Sheet Showing Changes

2/6

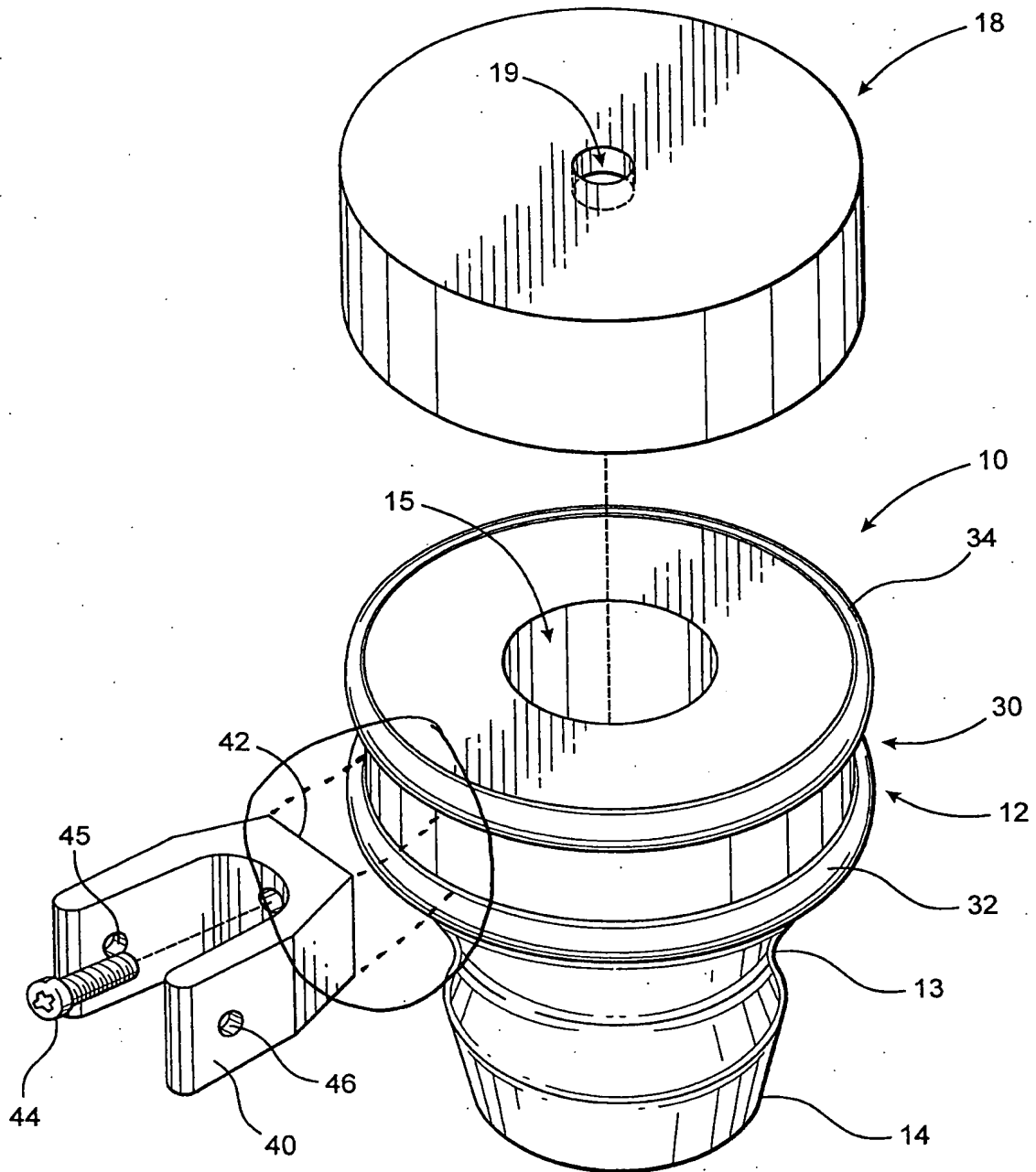


FIG. 2

4/6

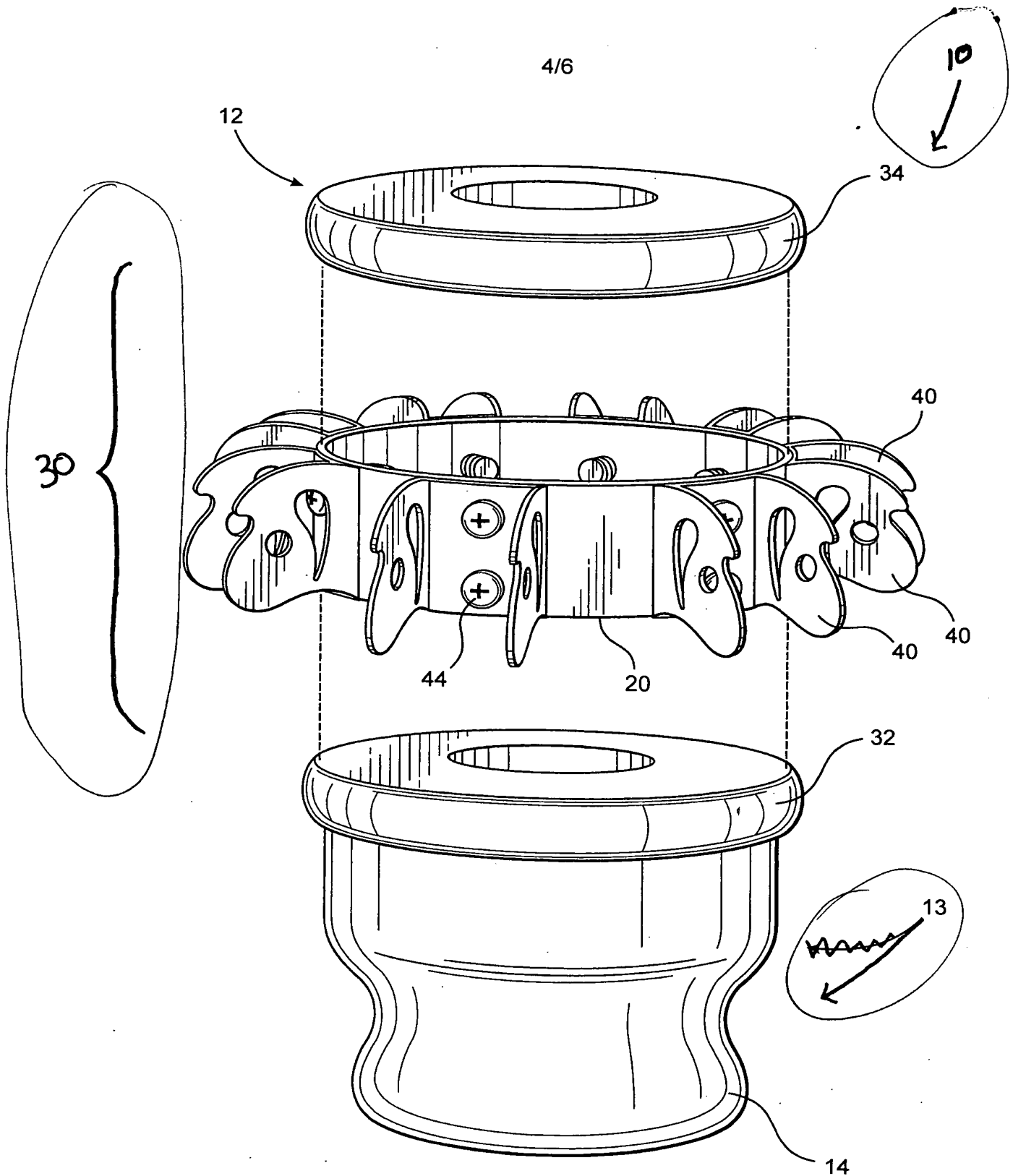


FIG. 3B